

Panama Canal Regulations

§ 256.6

§ 256.5 Formal notice to employee.

(a) At least 30 days before requesting an agency to offset the pay of an employee or commencing the offset of the pay of an employee of the Commission, the Chief Financial Officer will send the employee a notice stating—

(1) The nature and amount of the debt he has determined that the employee owes the United States;

(2) His intention to collect the debt by offset;

(3) The amount that the agency determines will be offset from the employee's disposable pay, including the proposed schedule for the deductions;

(4) Unless such payments are excused in accordance with 4 CFR 102.13, an explanation of the creditor agency's requirements concerning interest, penalties, and administrative costs;

(5) The employee's right to inspect and copy Government records relating to the debt or, if the employee or his representative cannot personally inspect the records, to request and receive a copy of such records.

(6) If not previously provided, the opportunity (under terms agreeable to the Commission) to establish a schedule for the voluntary repayment of the debt or to enter into a written agreement to establish a schedule for repayment of the debt in lieu of offset. The agreement must be in writing, signed by both the employee and the Commission, and documented in the Commission's files (4 CFR 102.2(e));

(7) If the applicable law includes a provision requiring waiver of debts in certain circumstances, notice of the waiver provision, including notice of the period within which such a waiver must be requested and an explanation of the conditions under which waiver may be granted;

(8) That amounts paid or deducted for the alleged debt which are later waived or found not owed to the United States will be promptly refunded to the employee;

(9) The employee's right to a hearing on the Chief Financial Officer's determination concerning the existence and amount of the debt and the proposed offset schedule. This notice shall include a description of the applicable hearing procedures and requirements;

(10) That the timely filing of a petition for hearing on the existence or amount of a debt or the offset schedule will stay the commencement of collection proceedings; but that a request for a waiver or a hearing on the employee's credibility of veracity in connection with a request for a permissive waiver will not stay the collection proceedings;

(11) That a final decision on the hearing (if one is requested) will be issued at the earliest practical date, but not later than 60 days after the filing of the petition requesting the hearing unless the employee requests and the hearing official grants a delay in the proceedings;

(12) The method and time period for requesting a hearing; and

(13) That any knowingly false or frivolous statements, representations, or evidence may subject the employee to:

(i) Disciplinary or adverse action;

(ii) Penalties under the False Claims Act, sections 3729-3731 of Title 31, United States Code, or any other applicable statutory authority; or

(iii) Criminal penalties under sections 286, 287, 1001, and 1002 of title 18, United States Code or any other applicable statutory authority.

(b) The formal notice prescribed by paragraph (a) of this section, is not applicable to any pay adjustment arising out of an employee's election of coverage or a change in coverage under a Federal benefits program requiring periodic deductions from pay, if the amount to be recovered was accumulated over four pay periods or less.

§ 256.6 Request for a hearing; pre-hearing submissions.

(a) An employee's request for a hearing or waiver under § 256.5 must be filed not later than 15 days from the date of receipt of the formal notice.

(b) Not later than three days prior to a scheduled hearing date, the employee may notify the Chief Financial Officer of his election to have the matter determined by the hearing official solely on the basis of written submissions. If no such election is filed by the employee, the hearing shall be conducted as an oral proceeding.

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(c) If an employee files a timely petition for a hearing, the Chief Financial Officer will—

(1) Notify the employee of the time, date, and location of the hearing, if a determination solely on the basis of written submissions has not been requested; and

(2) Provide copies of the records in the possession of the agency relating to the employee's debt to the hearing official and, if he has not previously received the records, to the employee.

(d) If the employee files a request for a hearing that is not timely, he will be granted a hearing if he establishes that his failure to file within the time prescribed was because of circumstances beyond his control or because he did not receive the notice of the time limit and was not otherwise aware of it.

(e) If the employee contests the Commission determination of the existence or amount of the debt, he shall, not later than 10 days prior to the scheduled hearing date, file the following documents:

(1) A statement of the reasons why the employee believes that the Commission determination of the existence or amount of the debt was clearly erroneous. The statement shall include a recitation of the facts on which the employee relies to support his belief and any legal arguments supporting his position;

(2) A list of witnesses the employee intends to call at the hearing and a statement of why their testimony is desired; and

(3) A copy of the records that the employee intends to introduce at the hearing, if they differ from those provided by the Commission.

(f) If the employee contests the Commission's proposed offset schedule, he shall, not later than 10 days prior to the scheduled hearing date, file the following:

(1) A proposed alternative offset schedule;

(2) A statement of the reasons why the proposed offset against disposable pay will produce an extreme financial hardship;

(3) The information required in § 256.4(b)(3) of this part;

(4) A list of witnesses the employee intends to call at the hearing and a

statement of why their testimony is desired; and

(5) A copy of the records that the employee intends to introduce at the hearing, if they differ from those provided by the Commission.

(g) The Chief Financial Officer shall file, not later than 10 days prior to the scheduled hearing date, a list of witnesses that the Commission intends to call at the hearing.

(h) Material submitted by an employee in connection with a request for reconsideration or for a waiver under § 256.4 need not be resubmitted in connection with the proceeding under this section.

(i) Material required to be filed under paragraphs (e), (f), and (g) of this section shall be filed with the hearing official and copies shall be provided to the opposing party.

§ 256.7 Hearings; time, date, and location.

(a) If an employee files a timely request for a hearing under § 256.6, the Commission will select the time, date, and location for the hearing. A hearing will be granted on a request for a waiver only if such waiver is provided for by law and if the request, in the judgment of the Chief Financial Officer, raises issues of veracity or credibility of the employee. To the extent feasible, the Commission will select a date and location that is convenient for the employee.

(b) For an employee who resides on the Isthmus of Panama, the hearing will be held in Panama. Hearings may be scheduled in New Orleans or Washington, D.C. for persons not residing in Panama.

§ 256.8 Consequence of employee's failure to meet deadline dates.

(a) An employee shall be considered to have waived his right to a hearing, and will have his disposable pay offset in accordance with the offset schedule proposed by the Commission, if the employee fails to appear at the time fixed for a hearing, or fails to file the required submissions under § 256.6 within five days after the filing date established under that section.

(b) The hearing official may excuse the employee's failure to meet any of